

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

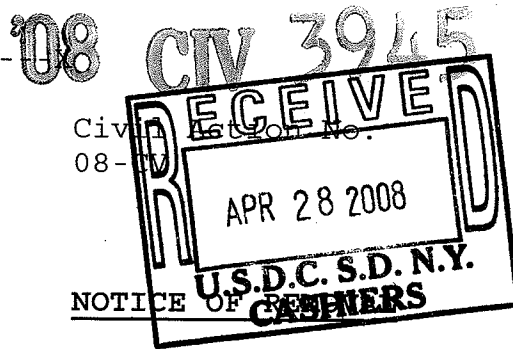
JOHN STARKS,

Plaintiff,

-against-

STAPLES THE OFFICE SUPERSTORE EAST,
INC.,

Defendant-Petitioner.



Bronx County
Index No. 302411/2008

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**TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF NEW YORK:**

Defendant-Petitioner, STAPLES THE OFFICE SUPERSTORE EAST, INC. (hereinafter "STAPLES") ("Petitioner"), by its attorneys, SIMMONS, JANNACE & STAGG, L.L.P., KATHRYN FITZGERALD, ESQ., of counsel; upon information and belief, respectfully petitions the Court, pursuant to 28 U.S.C. § 1441, as follows:

1. In March, 2008 the above-captioned civil action was commenced and is now pending in the Supreme Court of the State of New York, County of Bronx. A trial has not yet been had therein. A copy of the Summons and Complaint is annexed as Exhibit "A". Petitioner has not yet served an answer to Plaintiff's Complaint.

2. The action seeks monetary damages for injuries allegedly suffered by plaintiff, JOHN STARKS, while he was in Petitioner's store. The plaintiff's complaint sounds in negligence.

3. The action involves a controversy between citizens of different states, in that: (a) Plaintiff is a citizen of the State of New York; and (b) Petitioner is now, and was at the time the action was commenced, a corporation incorporated in the State of Massachusetts with its principal place of business in the State of Massachusetts.

4. This action is one of which the District Courts of the United States have original jurisdiction under 28 U.S.C. § 1332. There is complete diversity between Petitioner and Plaintiff.

5. In addition, the amount in controversy exceeds \$75,000. In his complaint plaintiff JOHN STARKS alleges that as a result of the incident complained of he was rendered "sick, sore, lame and disabled" and that some of his injuries are permanent in nature. He goes on to allege that he has had to seek medical attention and will incur additional expenses for future medical care. He further alleges that he has been "unable to pursue his usual duties," to his great damages.

6. Plaintiff STARKS claims that the damages he has sustained are in the amount of ten million dollars, thereby being above the federal jurisdictional limit.

7. This Notice of Removal is being filed within thirty (30) days after receipt by Petitioner of Plaintiff's Complaint.

8. Written notice of the filing of this Notice of Removal will be given to plaintiff promptly after the filing of this Notice.

9. A true and correct copy of this Notice of Removal will be filed with the Clerk of the Court of the Supreme Court of the State of New York, County of Bronx promptly after the filing of this Notice.

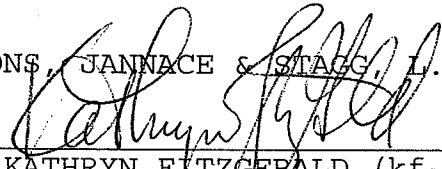
10. Attached to this Notice, and by reference made a part hereof, are true and correct copies of all process and pleadings filed herein.

11. By filing this Notice of Removal, Petitioner does not waive any defense which may be available to it, specifically including, but not limited to, their right to contest *in personam* jurisdiction over Petitioner, improper service of process and the absence of venue in this Court or the Court from which this action has been removed.

WHEREFORE, Petitioner prays that the above-captioned action now pending in the Supreme Court in the State of New York, County of Bronx, be removed therefrom to this Court.

Dated: Syosset, New York
April 25, 2008

SIMMONS, JANNACE & STAGG, L.L.P.

By: 
KATHRYN FITZGERALD (kf-3697)

Attorneys for Defendant
STAPLES THE OFFICE SUPERSTORE EAST,
INC.

Office & P.O. Address

75 Jackson Avenue
Syosset, New York 11791-3139
(516) 357-8100

To:

ANDREW F. PLASSE, P.C.
Attorney for Plaintiff
JOHN STARKS

Office & P.O. Address:

352 7th Avenue, Suite 402
New York, New York 10001
(212) 695-5811

nor.ussd.spl

Exhibit A

STATE OF NEW YORK
SUPREME COURT COUNTY OF BRONX

JOHN STARKS,

Plaintiff,

- against -

**STAPLES THE OFFICE SUPERSTORE
EAST, INC.,**

Defendant.

SUMMONS

Index No.: 302411/2008

Date Filed: 3/25/08

*Plaintiff designates Bronx
County as the Place of Trial*

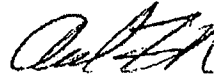
*The Basis of Venue is the
Plaintiff's residence.*

TO THE ABOVE NAMED DEFENDANT:

YOU ARE HEREBY SUMMONED to Answer the Complaint in this action and to serve a copy of your Answer, or of the Complaint is not served with this Summons, to serve a Notice of Appearance, on the Plaintiff's Attorney within twenty (20) days after the service of this Summons, exclusive of the day of service (or within thirty [30] days after the service is complete if this Summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Complaint.

DATED: March 21, 2008
New York, New York

Yours, etc.,



ANDREW F. PLASSE, P.C.
Attorney for the Plaintiff
Office and P.O. Address
352 7th Avenue, Suite 402
New York, NY 10001
(212) 695-5811

DEFENDANT'S ADDRESS:
Registered Agent to Accept Service:
CT Corporation
111 Eighth Ave.
New York, NY 10011

STATE OF NEW YORK
SUPREME COURT COUNTY OF BRONX

-----X
JOHN STARKS,

Plaintiff,

COMPLAINT
Index No.:

- against -

STAPLES THE OFFICE SUPERSTORE EAST, INC.

Defendant.
-----X

Plaintiff, by his attorney, ANDREW F. PLASSE, P.C., as and for his Complaint, hereby alleges and shows to the Court the following:

1. At all times hereinafter mentioned, the Plaintiff John Starks is an individual and resides at 1820 Phelan Place, Apt. 1-D, Bronx, NY 10453.
2. Upon information and belief, and at all times hereinafter mentioned, defendant Staples the Office Superstore East, Inc., [hereinafter referred to as "Staples"] was and now is, a foreign corporation, existing under and incorporated under the laws of the State of Delaware, but licensed to do, and doing business in the State of New York.
3. That at all times hereinafter mentioned, the Defendant Staples owned premises, located at 535 5th Avenue, Manhattan, NY 10017.
4. That at all times hereinafter mentioned, the defendant Staples operated premises, located at 535 5th Avenue, Manhattan, NY 10017.
5. That at all times hereinafter mentioned, the defendant Staples maintained premises, located at 535 5th Avenue, Manhattan, NY 10017.

6. That at all times hereinafter mentioned, the defendant Staples controlled premises, located at 535 5th Avenue, Manhattan, NY 10017.

7. That at all times hereinafter mentioned, the defendant Staples supervised premises, located at 535 5th Avenue, Manhattan, NY 10017.

8. That at all times hereinafter mentioned, the defendant Staples managed premises, located at 535 5th Avenue, Manhattan, NY 10017.

9. That at all times hereinafter mentioned, the defendant Staples was responsible for the safety of its invitees at the premises, located at 535 5th Avenue, Manhattan, NY 10017.

**AS AND FOR A FIRST CAUSE OF ACTION FOR NEGLIGENCE,
PLAINTIFF RESTATES AND REALLEGES EACH AND EVERY
ALLEGATION SET FORTH IN PARAGRAPHS "1-9" AND FURTHER
ALLEGES AS FOLLOWS:**

10. On or about July 22, 2007, at approximately 3:30 p.m., the Plaintiff was on the defendant's premises located at 535 5th Avenue, Manhattan, NY 10017.

11. At the date, time and place, as aforesaid, as plaintiff walked on a stairwell, he slipped and fell on a puddle of liquid on the floor, and as a result he sustained severe personal injuries.

12. That the incident alleged as aforesaid and the damages hereinafter alleged were caused wholly and solely through the tortuous conduct of the Staples, its agents, employees and/or servants, who were negligent in the ownership, operation, maintenance, supervision and repair of the aforesaid premises; in causing him to sustain personal injuries; upon information and belief, the defendant managed, operated, supervised, controlled and repaired the premises where the Plaintiff fell herein and was responsible for the safety and well being of invitees at said premises; that the aforesaid incident

occurred while the Plaintiff was a lawful pedestrian on the premises; the defendant had actual and/or constructive notice that its premises were in a dangerous and defective condition the defendant, its agents, employees and/or servants created a dangerous condition in which the aforesaid liquid was caused to exist by its employees in the course of maintaining the premises, causing the premises to become extremely dangerous with the likelihood of causing injury to pedestrians; in maintaining the aforesaid condition so that it constituted a nuisance and trap and a menace to the safety of the defendant's invitees; in failing to give any warnings or notice of the condition and of the dangers listed aforesaid and the existence of the improper conditions thereof; in maintaining a trap; in causing and permitting the condition to exist of which the defendant knew or in the exercise of reasonable care should have known was a danger to its invitees and allowed it to remain; in failing to remedy the condition; in causing the plaintiff to fall; in failing to use due care and caution under the circumstances; in failing to guard against a danger which the defendant should have anticipated on its premises, despite notice of same; in failing to provide adequate lighting for the plaintiff to see where he was going; in failing to warn the Plaintiff to the dangers herein; in creating the condition complained of herein; defendant had actual and/or constructive notice of the defect herein alleged; and in otherwise being careless, negligent and reckless under the circumstances.

13. Upon information and belief, the defendant had actual and/or constructive notice of the conditions as alleged herein.

14. That the injuries sustained by the plaintiff were caused without any carelessness or negligence on the part of the plaintiff contributing thereto.

15. Solely by reason of the above, the plaintiff sustained severe personal injuries, was rendered sick, sore, lame and disabled, sustained severe nervous shock and mental anguish, great physical pain and emotional upset, some of which injuries are permanent in nature and duration, and plaintiff will be permanently caused to suffer pain, inconvenience and other effects of such injuries; plaintiff incurred and in the future will necessarily incur further hospital and/or medical expenses in an effort to be cured of said injuries; and plaintiff has been and continues to be unable to pursue the usual duties with the same degree of efficiency as prior to this accident, all to plaintiff's great damage.

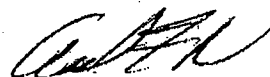
16. That by reason of the foregoing, the plaintiff has been damages in the amount of TEN MILLION [\$10,000,000.00] DOLLARS.

WHEREFORE, Plaintiff demands Judgment as follows:

I. Judgment on the First Cause of Action on behalf of the Plaintiff in the amount of TEN MILLION (\$10,000,000.00) DOLLARS;

II. Together with the costs and disbursements of this action and for such other and further relief as to this Court seems just and proper.

DATED: March 21, 2008
New York, New York



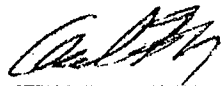
ANDREW F. PLASSE, P.C.
Attorney for the Plaintiff
Office and P.O. Address
352 7th Avenue, Suite 402
New York, NY 10001
[212] 695-5811

STATE OF NEW YORK)
COUNTY OF NEW YORK) ss.:

I, the undersigned, an attorney duly admitted to practice law in the State of New York, state that I am attorney of record for John Starks, the plaintiff in the within action; I have read the foregoing COMPLAINT and I know the contents thereof; the same is true as to my own knowledge, except as to those matters stated to be alleged upon information and belief, and as to those matters, I believe it to be true; the reason why this verification is made by me and not by John Starks, is because he resides outside of the County of New York, and is outside the principal location of my office which is located in New York County.

The grounds of my belief as to those matters not stated upon my own knowledge are as follows: Review of his file maintained by my office in the ordinary course of business.

DATED: March 21, 2008
 New York, New York



ANDREW F. PLASSE

Index No.:

STATE OF NEW YORK
SUPREME COURT

COUNTY OF BRONX

JOHN STARKS,

Plaintiff,

- against -

STAPLES THE OFFICE SUPERSTORE EAST, INC.,

Defendant.

SUMMONS and COMPLAINT

ANDREW F. PLASSE, P.C.

Attorney for the Plaintiff
Office and P.O. Address
352 Seventh Ave., Suite 402
New York, NY 10001
[212] 695-5811
FAX: [212] 402-7737

CT CORPORATION
A WoltersKluwer Company

**Service of Process
Transmittal**

04/07/2008

CT Log Number 513282479



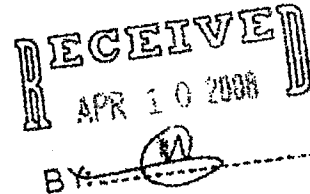
TO: Kristin Campbell, Sr. VP & Gen Csl
Staples, Inc.
V#30352, 500 Staples Drive
5 West
Framingham, MA 01702-

RE: Process Served in New York

FOR: Staples the Office Superstore East, Inc. (Domestic State: DE)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION:	John Starks, Pltf. vs. Staples the Office Superstore East, Inc., Dft.
DOCUMENT(S) SERVED:	Summons, Complaint
COURT/AGENCY:	Bronx County: Supreme Court, NY Case # 302411/2008
NATURE OF ACTION:	Personal Injury - Failure to Maintain Premises In a Safe Condition - On 07/22/2007
ON WHOM PROCESS WAS SERVED:	C T Corporation System, New York, NY
DATE AND HOUR OF SERVICE:	By Process Server on 04/07/2008 at 12:25
APPEARANCE OR ANSWER DUE:	Within 20 days after the service, exclusive of the day of service
ATTORNEY(S) / SENDER(S):	Andrew F. Plasse, P.C. 352 7th Avenue Suite 402 New York, NY 10001 212-695-5811
ACTION ITEMS:	SOP Papers with Transmittal, via Fed Ex 2 Day , 790486680340 Email Notification, Perry Wu Perry.Wu@Staples.com
SIGNED:	C T Corporation System
PER:	Christopher Tilton
ADDRESS:	111 Eighth Avenue New York, NY 10011
TELEPHONE:	212-894-8940



Page 1 of 1 / ND

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